

Message

From: /O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=06C2087D4D7247998CCD61F8769BA724-BLUNK, TERRI [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=06C2087D4D7247998CCD61F8769BA724-BLUNK, TERRI]
Sent: 4/2/2020 8:18:30 PM
To: adam.broughton@dnr.iowa.gov; swapan.k.saha.nfg@mail.mil; marla.oestreich@ks.gov; jason.meinholdt@ks.gov; Alexis.Crawford@ks.gov; devan.n.tucking.nfg@mail.mil; kdemspillscoordinator@gmail.com; karen.eagleson@sema.dps.mo.gov; mike.harris@sema.dps.mo.gov; Sam.Capps@nebraska.gov; alyssa.sanders@nebraska.gov; Drake.Brian@dol.gov; Irwin.Angela@dol.gov; sean.quinlan@dot.gov; dahlia.lewis@hq.dhs.gov; rodney.lockett@hq.dhs.gov; elonda.bacon@dnr.iowa.gov; alan.cortvrient_dnr.mo.gov [alan.cortvrient@dnr.mo.gov]; brad.harris_dnr.mo.gov [brad.harris@dnr.mo.gov]; Epps, Tracey [tracey.epps@iowa.gov]
CC: Bednar, Candace [Bednar.Candace@epa.gov]; Harper, Jodi [Harper.Jodi@epa.gov]; Hensley, Dave [Hensley.Dave@epa.gov]
Subject: Update from EPA Region 7's Chemical Accident Prevention Program

All,

Hope all is well with you, your families, and your co-workers.

I wanted to update you in these strange times. Other than the fact that we are all full-time teleworking and not doing in-person meetings/events, it is business as usual. We're focusing on enforcement that is already in the pipeline (which we have plenty of) and updating written guidance / on-line resources. Our work phones forward to our home phones, so don't hesitate to call as questions come up.

I also wanted to touch base on the COVID-19 memo EPA released last Friday. The memo, which can be read at <https://www.epa.gov/enforcement/covid-19-implications-epas-enforcement-and-compliance-assurance-program>, provides information for facilities that may be struggling with compliance amongst diminishing resources. The parts most pertinent to Chemical Accident Prevention Program (CAPP) and language from the second press release about them memo can be found below my signature block.

The main question the CAPP program is receiving are facilities that are thinking of storing greater quantities of chemicals, to ensure they have access to the chemicals when they need it. We've been telling them that if they go over thresholds that the need to develop a Risk Management Program and submit a plan, ensure they are following safe chemical storage and handling practices, and coordinate with their local responders/LEPCs/SERCs.

Again, as questions come up please contact your state coordinator or myself. Stay Safe.

Terri Blunk

EPA Region 7
Chemical Branch - Enforcement & Compliance Assurance Division
Outreach/Chemical Safety & Security Workgroup Coordinator
EPCRA Tribal and Nebraska Coordinator
blunk.terri@epa.gov
913-551-7013

Memo Section 1.A.

"I. Civil Violations

A. General conditions

All enforcement discretion set forth in this temporary policy is conditioned on the following.

1. Entities should make every effort to comply with their environmental compliance obligations.
2. If compliance is not reasonably practicable, facilities with environmental compliance obligations should:
 - a. Act responsibly under the circumstances in order to minimize the effects and duration of any noncompliance caused by COVID-19;
 - b. Identify the specific nature and dates of the noncompliance;
 - c. Identify how COVID-19 was the cause of the noncompliance, and the decisions and actions taken in response, including best efforts to comply and steps taken to come into compliance at the earliest opportunity;
 - d. Return to compliance as soon as possible; and
 - e. Document the information, action, or condition specified in a. through d.”

Memo Section IV

“Nothing in this temporary policy relieves any entity from the responsibility to prevent, respond to, or report accidental releases of oil, hazardous substances, hazardous chemicals, hazardous waste, and other pollutants, as required by federal law, or should be read as a willingness to exercise enforcement discretion in the wake of such a release.”

Second Press Release

EPA Corrects the Record after Reckless Reporting on Temporary Compliance Guidance

WASHINGTON (March 30, 2020) – The mission of the U.S. Environmental Protection Agency (EPA) is to protect human health and the environment, and during this time of unprecedented public health concerns, that mission is even more critical. On March 26, EPA released a [temporary policy](#) regarding the agency’s enforcement of environmental legal obligations during the COVID-19 pandemic. This temporary policy is not a license to pollute.

We strongly encourage the press to actually read EPA’s Temporary Policy before repeating reckless propaganda about it. Instead of including factual information about the policy, outlets such as [E&E News](#), [The Hill](#), the [AP](#), and the [New York Times](#) are relying on sources who falsely claim that the policy provides a blanket waiver of environmental requirements or creates a presumption that the pandemic is the cause of noncompliance.

Here are some of the facts that have been conveniently left out of the press narrative:

The policy says that EPA will not seek penalties for noncompliance with **routine monitoring and reporting** requirements, **if**, on a case-by-case basis, EPA agrees that such noncompliance was caused by the COVID-19 pandemic. Regulated parties must document the basis for any claim that the pandemic prevented them from conducting that routine monitoring and reporting and present it to EPA upon request. This action was necessary to avoid tying up EPA staff time with questions about routine monitoring and reporting requirements and instead allow EPA to focus on continued protection of human health and the environment.

The policy does **not** say that the COVID-19 pandemic will excuse **exceedances of pollutant limitations in permits, regulations, and statutes**. EPA expects regulated entities to comply with all obligations and if they do not, the policy says that EPA will consider the pandemic, on a case-by-case basis, when determining an appropriate response. Further, in cases that may involve acute risks or imminent threats, or failure of pollution control or other equipment that may result in exceedances, EPA’s willingness to provide even that consideration

is conditioned on the facility contacting the appropriate EPA region, or authorized state or tribe, to allow regulators to work with that facility to mitigate or eliminate such risks or threats.

EPA has been inundated with questions from both state regulators and the regulated community about how to handle the current extraordinary situation where contractors are not available because they cannot travel, state and local governments are imposing stay at home orders, and the number of people who have contracted COVID-19 and are in quarantine is rising. EPA developed the Temporary Policy to allow EPA to prioritize its resources to respond to acute risks and imminent threats, rather than making up front case-by-case determinations regarding routine monitoring and reporting. The development of the policy was a group effort, involving multiple calls and with and drafts shared among EPA staff and managers, both career and political, at both headquarters and in the regions.

It is important to note EPA expects regulated facilities to comply with regulatory requirements, where reasonably practicable, and to return to compliance as quickly as possible, once the COVID-19 threat is over. Additionally, the policy makes clear that EPA expects operators of public water systems to continue normal operations and maintenance during this time, as well as required sampling, to ensure the safety of vital drinking water supplies.

The measures in this policy are temporary and will be lifted as soon as normal operations can resume, which may occur sooner in some locations than others. We take our environmental mandate to protect human health and the environment very seriously and will continue to carry it out during this time.